IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4001 OF 2006

Vijay Vinayak Kshirsagar ..Petitioner

Vs.

Sou.Manisha Vijay Kshirsagar ..Respondents

Mr.R.P.Walvekar for the petitioner

CORAM : A.P.DESHPANDE, J

DATED : 14TH NOVEMBER, 2006

P.C.:

1. Placing reliance on the judgment of the Supreme Court in the case of Arjun Singh v. Mohindra Kumar and others reported in AIR 1964 SC 993, the learned counsel for the petitioner submits that the trial court ought not to have permitted the respondents to cross-examine the witnesses of the petitioner so also ought not to have permitted him to participate in the proceedings, by granting permission to lead evidence. Reliance placed on the judgment referred to hereinabove is not proper for the reason that in the case in hand, the hearing of the matter had not concluded and the

case was not posted for pronouncement of judgment. The Supreme Court judgment referred to hereinabove goes to hold that Order 9 Rule 7 cannot be resorted to once the case is adjourned for pronouncement of judgement. This is not the fact situation in the instant case. The court had not closed the case and had not fixed it for judgment. As the matter was not fixed for judgment the same was only adjourned for hearing. On sufficient cause being shown by the respondent for inability to remain present on the earlier dates, the trial court has permitted the respondents to cross-examine the witnesses and participate in the proceeding by rejecting the application moved by the petitioner requesting to pronounce the ex-parte judgment and decree.

2. Perused the order. No interference is called for. Writ Petition is summarily rejected.

3. At this stage, the learned counsel for the petitioner submits that by remaining absent on various occasions, the respondent has delayed the decision in the case. Having regard to the nature

of dispute, I hope and trust that the Trial Court will proceed to decide the Hindu Marriage Petition as expeditiously as possible. I expect the decision in the matter within six months from today.

(SHRI A.P.DESHPANDE, J)